

REMARKS

In the Office Action dated October 31, 2006, claims 1 and 3-5 were rejected under 35 U.S.C. §102(b) as being anticipated by Ballantine. Claim 2 was rejected under 35 U.S.C. §103(a) as being unpatentable over Ballantine. Claim 7 was rejected under 35 U.S.C. §103(a) as being unpatentable over Ballantine in view of Ingalls. Claims 6 and 8-10 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ballantine in view of Wang et al. Claims 11, 13 and 15-19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ballantine and Wang et al., further in view of Murphy et al. Claim 12 was rejected under 35 U.S.C. §103(a) as being unpatentable over Ballantine and Wang et al., further in view of Ingalls. Claim 20 was rejected under 35 U.S.C. §103(a) as being unpatentable over Ballantine/ Wang et al./Murphy, further in view of Ingalls.

In response, each of the claims has been amended to refer solely to the fabric garment as being a fabric surgical mask. The claims prior to the present Amendment either referred to a generic fabric garment, or a fabric garment selected from the group consisting of a fabric surgical mask and a fabric neckband.

Applicant acknowledges that the Ballantine reference discloses a fabric neckband having a microphone therein, but there is no disclosure or suggestion in the Ballantine reference, or any other reference of record, to incorporate a microphone in a pocket of a fabric surgical mask. Incorporation of a microphone in the pocket of a fabric surgical mask facilitates use of the microphone during a surgical procedure in an obtrusive way.

Applicant submits that the Ballantine reference is evidence of the patentability of the subject matter of a surgical mask having a pocket therein containing a

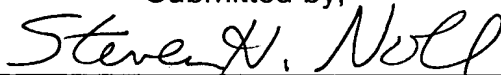
microphone, rather than a basis for precluding patentability of that subject matter. Despite the use of surgical masks in surgery being notoriously well known, and despite the disclosure in the Ballantine reference to incorporate a microphone in a neckband, there is still no suggestion or disclosure whatsoever in the Ballantine reference to alternative incorporate a microphone in a surgical mask.

Since the Ballantine reference does not disclose a surgical mask having a pocket therein containing a microphone, this is sufficient to overcome the anticipation rejection of claims 1 and 3-5 based on Ballantine.

The above considerations as to obviousness apply to all of the obviousness rejections, either those based on Ballantine alone, or Ballantine in combination with one or more additional references. Applicant submits it is not necessary to individually comment upon each of the additional references cited by the Examiner. For the reasons discussed above, even if the Ballantine neckband were modified in accordance with the teachings of one or more of those additional references, the subject matter of the claims presented in this Amendment still would not result, since none of those references disclose or suggest a fabric surgical mask having a pocket with a microphone therein.

All claims of the application are submitted to be in condition for allowance, and early reconsideration of the application is respectfully requested.

Submitted by,



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